

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Butler	Team: Squad #5	CCRB Case #: 201700382	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/11/2017 11:30 PM, Thursday, 01/12/2017	Location of Incident: [REDACTED]	Precinct: 47	18 Mo. SOL 7/11/2018	EO SOL 7/11/2018	
Date/Time CV Reported Tue, 01/17/2017 3:59 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/17/2017 3:59 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Patrick Jean	24116	[REDACTED]	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonathan Vasquez	11731	[REDACTED]	047 PCT
2. POM Daniel Nunez	18750	[REDACTED]	047 PCT
3. POM Matthew Palmerini	10321	[REDACTED]	047 PCT
4. POM Keith Figueroa	28992	[REDACTED]	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Patrick Jean	Abuse: Police Officer Patrick Jean stopped [REDACTED] [REDACTED]	[REDACTED]
B.POM Patrick Jean	Abuse: Police Officer Patrick Jean searched [REDACTED] [REDACTED]	[REDACTED]
C.POM Patrick Jean	Abuse: Police Officer Patrick Jean searched the vehicle in which [REDACTED] [REDACTED] was an occupant.	[REDACTED]
D.POM Patrick Jean	Abuse: Police Officer Patrick Jean seized [REDACTED] [REDACTED] property.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

██████ filed this complaint with the CCRB via phone on January 17, 2017. The case is over 90 days old due to significant delays in obtaining the 911 recording related to this incident. The officers justified their actions on the basis of information they obtained in a 911 call, and there was no event listed on the SPRINT related to this incident. The 911 CD was requested from the Communications Division on March 17, 2017, but the Communications Division did not fulfill the request until May 30, 2017, despite repeated requests through IAB for the Communications Division to expedite the request. On May 30, 2017, the Communications Division notified IAB that they were unable to locate the requested 911 CD. On the same day, Det. McFarlane of the IAB/CCRB Liaison was consulted in regards to this issue, and he stated that there was nothing else that could be done to obtain the 911 CD because the Communications Division maintained that they had no record of it. Det. McFarlane advised the investigation to request the resource log from the date of the incident. On May 30, 2017, the resource log was requested from IAB, and it was received on June 15, 2017. The resource log did not reveal any 911 communication related to this incident, and the case was closed seven days later on June 21, 2017.

On January 12, 2017, at approximately 11: 30 p.m., ██████ drove his mother's car on the ██████ near the exit to ██████ in the Bronx. ██████ became involved in a dispute with another unidentified motorist who cut in front of him while driving, and the other motorist followed ██████ when he exited the expressway onto ██████. ██████ drove to ██████ and ██████ in the Bronx at which time he parked his car, exited the vehicle, and approached the other motorist on foot. At that time, Police Officer Patrick Jean and PO Matthew Palmerini of the 47th Precinct approached ██████ and PO Jean said, "Don't, move. Keep your hands where they are" (**Allegation A**). PO Jean immediately reached into ██████ front hoodie pocket and all of his pants pockets, and he removed ██████ belongings from his pockets, including his utility knife (**Allegation B**). PO Jean then walked to ██████ parked car and searched his vehicle (**Allegation C**). The officers allowed ██████ to leave without arresting him or issuing him a summons. PO Jean allegedly failed to return ██████ utility knife to him, and PO Jean did not issue ██████ a voucher for his seized property (**Allegation D**).

Video footage was obtained from surveillance cameras from an apartment complex near the incident location. However, the incident occurred outside of the frame of the camera, and the video only showed the officers briefly as they drove toward the scene of the incident in their vehicle. The original footage is located in IA 44 but requires a special video player to play and must be copied from CTS.

§ 87(2)(b)

Civilian and Officer CCRB Histories

§ 87(2)(b)

PO Jean has been a member of the NYPD for 12 years and has been the subject of five prior CCRB complaints involving eight allegations. PO Jean has one prior substantiated allegation for an improper vehicle stop for which the Board recommended Command Discipline A, and the NYPD concurred with that recommendation. There is no pattern in PO Jean's CCRB history applicable to this case.

Potential Issues

PO Jean acknowledged stopping and searching [REDACTED] and he acknowledged searching [REDACTED] vehicle. PO Jean stated that he took those actions based on information he obtained in a 911 call, which stated that a man matching [REDACTED] description brandished a gun at the unidentified 911 caller. PO Jean documented the 911 call in his memo book.

As noted previously, the investigation was unable to obtain the 911 CD related to this incident. There was no event listed on the SPRINT from the 47th Precinct within a two hour time frame before or after the incident time that matched the incident details. The resource log from the 47th Precinct also confirmed that there was no documented event related to the incident in that time frame. The incident began on the [REDACTED] near the border of the 47th Precinct, 49th Precinct, and 52nd Precinct. The SPRINTs and resource logs from those neighboring precincts were obtained, but there was no record of the 911 call.

[REDACTED] friend, [REDACTED] witnessed the incident but did not provide a verified statement. [REDACTED] was contacted via phone, and he provided a brief, unverified phone statement. [REDACTED] did not schedule an in-person interview because he stated that his work schedule prohibited him from meeting in-person in the field or at the CCRB. [REDACTED] scheduled a phone interview, but he did not answer his phone at the time of his scheduled interview. [REDACTED] failed to respond to numerous subsequent contact attempts.

Findings and Recommendation

Explanation of Subject Officer Identification

PO Jean stated that he responded to the scene to provide backup and was not the unit assigned to the 911 call. PO Jean did not know which officers were assigned to the job, and he did not know whether those officers were from the 47th Precinct or from some other command. The 47th Precinct roll call noted that there were 26 officers assigned to a larceny operation working during the time of the incident. The Precinct Sector Maps for the 47th Precinct also showed that [REDACTED] altercation with the other motorist began at the border of the 47th Precinct, 49th Precinct, and 52nd Precinct, and then crossed Sectors A, B, and C in the confines of the 47th Precinct. As such, the investigation was unable to identify the officers who were assigned to handle the alleged 911 call because there was no SPRINT and because the pool of potential officers encompassed most of the officers on duty in the 47th Precinct as well as officers from neighboring commands.

[REDACTED] stated that PO Jean, PO Palmerini, and an unidentified officer in plainclothes initially approached him. PO Jean and PO Palmerini stated that there was no other officer with them during the initial stop. Both officers stated that additional units responded near the

conclusion of the incident, but they did not recall how many officers responded, who they were, or to what command they were assigned.

PO Jonathan Vasquez, PO Daniel Nunez, and PO Keith Figueroa of the 47th Precinct were assigned to anti-crime duties during the incident, and these officers were interviewed. PO Nunez did not recall the incident. PO Vasquez and PO Figueroa testified that they also received the radio run described by PO Jean and PO Palmerini, but they stated that they were not present on the scene of the incident when the allegations occurred. As a result, the investigation was unable to identify any additional witness officers to this incident besides PO Palmerini.

Allegation A – Abuse of Authority: Police Officer Patrick Jean stopped [REDACTED].

Allegation B – Abuse of Authority: Police Officer Patrick Jean searched [REDACTED].

Allegation C – Abuse of Authority: Police Officer Patrick Jean searched the vehicle in which [REDACTED] was an occupant.

Allegation D – Abuse of Authority: Police Officer Patrick Jean seized [REDACTED] property.

It is undisputed that PO Jean stopped [REDACTED] searched him, and searched his vehicle.

According to [REDACTED] he drove his mother's car northbound on the [REDACTED] near [REDACTED] in the Bronx when another motorist cut in front of him. [REDACTED] turned to exit the expressway onto [REDACTED] and the other motorist pulled in front of him, causing him to slam on his breaks. One male and one female passenger exited the vehicle and approached [REDACTED]

[REDACTED] wore a red hooded sweatshirt and blue jeans. He carried his wallet, a small bag of marijuana, and a knife with a four to five inch blade in his back left pocket. [REDACTED] placed his knife in his front hoodie pocket and exited his car as the two unidentified motorists approached him. [REDACTED] and the male motorist argued. [REDACTED] did not display his knife during the argument. [REDACTED] did not have a gun during the incident, never told anyone that he had gun, and never interacted with anyone while holding an object in his hand.

After the argument, [REDACTED] got back in his car, exited the expressway onto [REDACTED] and drove toward [REDACTED]'s apartment at [REDACTED] and [REDACTED] in the Bronx. [REDACTED] parked his vehicle near the corner of [REDACTED] and [REDACTED] exited his vehicle, and walked toward the unidentified motorist's vehicle behind him. The vehicle drove away from [REDACTED] and [REDACTED] walked back toward his vehicle.

At that time, PO Jean and PO Palmerini approached [REDACTED] PO Jean said, "Don't move. Keep your hands where they are." [REDACTED] complied, and PO Jean immediately reached inside [REDACTED] front hoodie pocket, removed [REDACTED] knife, and threw it on the ground. PO Jean then reached inside [REDACTED] jean pockets and removed his car keys and marijuana. PO Jean placed [REDACTED] marijuana back inside of his pocket after removing it.

According to [REDACTED] PO Palmerini asked [REDACTED] what kind of car he was driving, and [REDACTED] described his vehicle as a gray Rav 4. [REDACTED] recognized the officers as officers who he had seen in his neighborhood before, and he knew that they often looked for guns while

on patrol. ■■■ ■■■ asked the officers if someone reported a gun, and PO Palmerini told him that they could not discuss that. PO Palmerini asked ■■■ ■■■ why he followed the other motorist, and ■■■ ■■■ told PO Palmerini that he did not follow the motorist and that the motorist was actually following him. The officers asked where ■■■ ■■■ vehicle was parked, and ■■■ ■■■ pointed in the direction of his car. PO Jean walked toward the vehicle while PO Palmerini remained near ■■■ ■■■ ■■■ ■■■ could not see what PO Jean did when he went to his car, but he later discovered that his belongings were strewn around the inside of his vehicle, leading ■■■ ■■■ to believe that PO Jean searched his car.

PO Jean returned to ■■■ ■■■ a few minutes later and retrieved his knife from the ground. The officers walked toward their unmarked police vehicle to leave the scene, and ■■■ ■■■ asked PO Jean to return his knife. PO Jean did not do so, and the officers drove away without arresting ■■■ ■■■ or issuing him a summons.

According to PO Jean and PO Palmerini, they were working an anti-crime assignment when they received a radio run of a road rage incident in which a driver brandished a firearm. The 911 complainant reported that he was following the suspect and that the suspect was driving near the intersection of ■■■ ■■■ and ■■■ ■■■ approximately two blocks away from ■■■ ■■■ and ■■■ ■■■. The radio run provided a description of the suspect, which neither officer could specifically remember at the time of their interviews, and a description of the suspect's car. PO Jean, PO Vasquez, and PO Palmerini documented the radio run in their memo books, and PO Figueroa testified that he heard the radio call during the incident but did not respond to the scene.

PO Jean and PO Palmerini immediately responded to the scene in their unmarked police vehicle with PO Palmerini driving. PO Palmerini drove down Corsa Avenue toward ■■■ ■■■ at which time both officers observed ■■■ ■■■ walking down Corsa Avenue near the corner. The officers exited their car and approached ■■■ ■■■ and PO Jean told ■■■ ■■■ to stop. Both officers stated that they approached ■■■ ■■■ because he matched the specific description of the suspect reported in the 911 call and because he was approximately two blocks away from the location last reported in the radio run. Based on these factors, PO Jean decided to stop ■■■ ■■■ to investigate the alleged crime. Both officers stated that there was no other officer present during ■■■ ■■■ initial stop.

Both officers stated that they observed a bulge in ■■■ ■■■ right pocket. PO Jean described the bulge as approximately two inches wide and "a few inches" long. PO Jean stated that he asked ■■■ ■■■ to identify the object and that ■■■ ■■■ told him that it was a utility knife. PO Jean informed ■■■ ■■■ that he was going to remove the knife until the conclusion of the officers' investigation, and PO Jean reached into ■■■ ■■■ pocket and took out the knife. PO Jean and PO Palmerini both stated that they smelled marijuana emanating from ■■■ ■■■ but PO Jean denied searching any of ■■■ ■■■ other pockets and denied recovering marijuana from him.

After removing the knife from ■■■ ■■■ PO Jean and PO Palmerini stated that the 911 complainant arrived on the scene accompanied by the unidentified unit assigned to the original radio run. PO Jean stated that he spoke with the 911 caller, that the caller pointed at ■■■ ■■■ and identified him as the subject of his complaint, and that the 911 caller pointed at ■■■ ■■■ vehicle and identified it as ■■■ ■■■ car. The 911 caller reiterated that ■■■ ■■■ had a gun, and

PO Jean told him that [REDACTED] did not have a gun on his person. The 911 caller insisted that he saw [REDACTED] with a gun.

PO Jean then walked to [REDACTED] vehicle and searched it by entering the car and visually inspecting the interior. PO Jean visually inspected the inside of the center console, glove compartment, and trunk because there were no lids or doors covering these areas. PO Jean did not find a gun in the car. PO Jean searched the car because the 911 caller told the officers that [REDACTED] had a gun and that he saw [REDACTED] with the gun while [REDACTED] was inside of his car. As such, PO Jean suspected that [REDACTED] might have hidden his gun in his car.

PO Jean returned to [REDACTED] and told the other officers that he did not find a gun. PO Jean and PO Palmerini then left the scene. PO Jean and PO Palmerini denied that PO Jean kept [REDACTED] knife upon leaving the scene.

It is undisputed that PO Jean stopped [REDACTED] searched him, and searched his vehicle, but the investigation could not determine by a preponderance of the evidence whether or not PO Jean was justified in taking those actions. PO Jean justified the stop and the car search based on information he obtained from the 911 call and from his conversation with the 911 caller. As previously noted, there was no event listed in the SPRINT for this incident, and the NYPD Communications Division failed to produce the 911 CD. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date